

UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF ILLINOIS

FILED

APR 05 2003

JOHN M. WATERS, Clerk
U.S. DISTRICT COURT
CENTRAL DISTRICT OF ILLINOIS
URBANA, IL

UNITED STATES OF AMERICA,

Plaintiff,

v.

ARCHER DANIELS MIDLAND COMPANY,

Defendant

CIVIL ACTION NO.

03-2003

COMPLAINT

The United States of America, by the authority of the Attorney General of the United States and through the undersigned attorneys, acting at the request of the Administrator of the United States Environmental Protection Agency ("EPA"), alleges:

NATURE OF THE ACTION

1. This is a civil action brought against Defendant, Archer Daniels Midland Company ("ADM"), for violations of the following statutory and regulatory requirements of the Clean Air Act (the "Act"), 42 U.S.C. §7401 et seq. at its fifty-three (53) processing plants at forty-two (42) facilities nationwide: Part C of Title I of the Act, 42 U.S.C. § 7470-7492, Prevention of Significant Deterioration ("PSD"); certain New Source Performance Standards ("NSPS"), 40 C.F.R. Part 60; Title V of the Act, 42 U.S.C. § 7661, Permits; the state or federal implementation plans ("SIPs" or "FIPs") for Arkansas, Georgia, Indiana, Illinois, Iowa, Kansas, Minnesota, Mississippi, Missouri, Nebraska, North Carolina, North Dakota, Ohio, South

Carolina, Texas, and the Iowa Counties of Linn and Polk, the Tennessee County of Shelby, and the Nebraska County of Lancaster which incorporate and/or implement the above-listed federal requirements; and SIP permitting programs for construction and operation of new and modified stationary sources.

2. The United States seeks an injunction ordering ADM to comply with the above-cited Clean Air Act requirements and regulations promulgated thereunder, and civil penalties for ADM's past and ongoing violations.

JURISDICTION AND VENUE

3. This Court has jurisdiction of the subject matter of this action pursuant to Section 113(b) of the CAA, 42 U.S.C. § 7413(b), and 28 U.S.C. §§ 1331, 1345.

4. Venue is proper under 28 U.S.C. § 1391 (b) and (c), because ADM owns and operates facilities in this District.

NOTICES

5. The United States provided notice of the violations alleged herein to each of the sixteen (16) states and four (4) county air authorities where the ADM facilities are located, pursuant to Section 113 of the Act, 42 U.S.C. § 7413.

6. The 30-day period established in Section 113 of the Act, 42 U.S.C. § 7413, between the notice provided by the United States and the commencement of this civil action has elapsed.

THE DEFENDANT

7. ADM is a multi-national agribusiness that owns and operates 43 facilities in 16 states which process corn, wheat, soybeans, and other oilseeds into value-added products used in

the food, feed, ethanol and other industries.

8. ADM's corporate headquarters is located in Decatur, Illinois. ADM is a "person" within the meaning of Section 302(e) of the CAA, 42 U.S.C. § 7602(e).

9. At all times relevant to this Complaint, ADM owned and operated the following plants, certain of which are located at the same facility:

- Augusta, Georgia (now closed)
- Champaign, Illinois (now closed and sold)
- Clarksdale, Mississippi (now closed)
- Cedar Rapids, Iowa
- Clinton, Iowa
- Columbus, Nebraska
- Decatur, Illinois
- Des Moines, Iowa
- Enderlin, North Dakota
- Fostoria, Ohio
- Frankfort, Indiana
- Fredonia, Kansas
- Fremont, Nebraska
- Galesburg, Illinois
- Goodland, Kansas
- Granite City, Illinois (now closed)
- Helena, Arkansas (now closed)
- Keokuk, Iowa
- Kershaw, South Carolina
- Levelland, Texas (now closed)
- Lincoln, Nebraska
- Little Rock, Arkansas
- Lubbock, Texas
- Mankato, Minnesota
- Marshall, Minnesota
- Memphis, Tennessee
- Mexico, Missouri
- North Kansas City, Missouri
- North Little Rock, Kansas (now closed)
- Peoria, Illinois
- Port Gibson, Mississippi (now closed)
- Quanah, Texas (now closed)
- Quincy East, Illinois

Quincy West, Illinois
Red Wing, Minnesota
Richmond, Texas
Southport, North Carolina
Sweetwater, Texas (now closed)
Taylorville, Illinois
Valdosta, Georgia
Velva, North Dakota
Walhalla, North Dakota

STATUTORY AND REGULATORY BACKGROUND

Prevention of Significant Deterioration

10. Section 109 of the Act, 42 U.S.C. § 7409, requires the Administrator of EPA to promulgate regulations establishing primary and secondary national ambient air quality standards ("NAAQS" or "ambient air quality standards") for certain criteria air pollutants. The primary NAAQS are to be adequate to protect the public health, and the secondary NAAQS are to be adequate to protect the public welfare, from any known or anticipated adverse effects associated with the presence of the air pollutant in the ambient air.

11. Section 110 of the Act, 42 U.S.C. § 7410, requires each state to adopt and submit to EPA for approval a State Implementation Plan ("SIP") that provides for the attainment and maintenance of the NAAQS.

12. Under Section 107(d) of the Act, 42 U.S.C. § 7407(d), each state is required to designate those areas within its boundaries where the air quality is better or worse than the NAAQS for each criteria pollutant, or where the air quality cannot be classified due to insufficient data. These designations have been approved by EPA and are located at 40 C.F.R. Part 81. An area that meets the NAAQS for a particular pollutant is classified as an "attainment" area; one that does not is classified as a "non-attainment" area.

13. Part C of Title I of the Act, 42 U.S.C. §§ 7470-7492, sets forth requirements for the prevention of significant deterioration ("PSD") of air quality in those areas designated as attaining the NAAQS standards. These requirements are designed to protect public health and welfare, to assure that economic growth will occur in a manner consistent with the preservation of existing clean air resources and to assure that any decision to permit increased air pollution is made only after careful evaluation of all the consequences of such a decision and after public participation in the decision-making process. These provisions are referred to herein as the "PSD program."

14. Section 165(a) of the Act, 42 U.S.C. § 7475(a), prohibits the construction and subsequent operation of a major emitting facility in an area designated as attainment unless a PSD permit has been issued. Section 169(1) of the Act, 42 U.S.C. § 7479(1), defines "major emitting facility" generally as a source with the potential to emit 250 tons per year ("TPY") or more of any air pollutant. In addition, ADM's ethanol plants are "chemical process plants" in accordance with Section 169(1) of the CAA, 42 U.S.C. § 7479(1), which defines "major emitting facility" for certain listed stationary sources as a source with the potential to emit 100 TPY or more of any air pollutant.

15. As set forth at 40 C.F.R. § 52.21(k), the PSD program generally requires a person who wishes to construct or modify a major emitting facility in an attainment area to demonstrate, before construction commences, that construction of the facility will not cause or contribute to air pollution in violation of any ambient air quality standard or any specified incremental amount.

16. As set forth at 40 C.F.R. § 52.21(a), any major emitting source in an attainment area that intends to construct a major modification must first obtain a PSD permit. "Major

modification" is defined at 40 C.F.R. § 52.21(b)(2)(i) as meaning any physical change in or change in the method of operation of a major stationary source that would result in a significant net emission increase of any criteria pollutant subject to regulation under the Act. "Significant" is defined at 40 C.F.R. § 52.21(b)(23)(i) in reference to a net emissions increase or the potential of a source to emit any of the following criteria pollutants, at a rate of emissions that would equal or exceed any of the following: 40 tons per year ("TPY") for NO_x; 40 TPY for VOC, 40 TPY for SO₂, 100 TPY for CO, 15 TPY for PM₁₀, and 25 TPY for PM, (hereinafter "criteria pollutants").

17. As set forth at 40 C.F.R. § 52.21(j), a new major stationary source or a major modification in an attainment area shall install and operate best available control technology ("BACT") for each pollutant subject to regulation under the Act that it would have the potential to emit in significant quantities.

18. Section 161 of the Act, 42 U.S.C. § 7471, requires state implementation plans to contain emission limitations and such other measures as may be necessary, as determined under the regulations promulgated pursuant to these provisions, to prevent significant deterioration of air quality in attainment areas.

19. A state may comply with Section 161 of the Act either by being delegated by EPA the authority to enforce the federal PSD regulations set forth at 40 C.F.R. § 52.21, or by having its own PSD regulations approved as part of its SIP by EPA, which must be at least as stringent as those set forth at 40 C.F.R. § 51.166. All of the states at issue here have either delegated or approved PSD programs.

Nonattainment New Source Review

20. Sections 110(a)(2)(C) and (I) of the Act, 42 U.S.C. § 7410(a)(2)(C) & (I), require

that each SIP contain a program meeting the requirements of Part D of the Act for the pre-construction review and permitting of new and modified stationary sources located in or near areas designated as "nonattainment" for a criteria pollutant pursuant to section 107(d) of the Act, 42 U.S. C. § 7407(d).

21. EPA regulations at 40 C.F.R. § 51.165 require that each SIP contain such a program for pre-construction review and permitting of new and modified sources in or near designated nonattainment areas.

22. As reflected in the relevant sections of 40 C.F.R. Part 52, each of the states at issue here has adopted such a program, and EPA has approved it into the relevant SIP. In each case, the approved program regulates through the permitting process both the construction and operation of new and modified stationary sources in or near designated nonattainment areas. In some cases, the program requires the payment of emission fees in proportion to emission levels.

Minor New Source Review

23. Section 110(a)(2)(C) of the Act, 42 U.S.C. § 7410(a)(2)(C), requires that each SIP contain a basic program applicable to all areas of the state for the pre-construction review and permitting of new and modified stationary sources as necessary to assure attainment and maintenance of the NAAQS.

24. EPA regulations at 40 C.F.R. § 51.160 require that each SIP contain such a generally applicable program for pre-construction review and permitting.

25. As reflected in the relevant sections of 40 C.F.R. Part 52, each of the states at issue here has adopted such a program, and EPA has approved it into the relevant SIP. In each

case, the approved program regulates through the permitting process both the construction and operation of new and modified stationary sources. In some cases, the program requires the payment of emission fees in proportion to emission levels.

26. Each of ADM's plants at issue here is subject in whole or in part to one or more construction and/or operating permits issued pursuant to such an approved program. Such permits contain emission limitations and other terms and conditions applicable to various criteria pollutants, including VOCs and CO.

New Source Performance Standards

27. Section 111(b)(1)(A) of the CAA requires EPA to publish (and periodically revise) a list of categories of stationary sources including those categories that, in EPA's judgment, cause or contribute significantly to air pollution which may reasonably be anticipated to endanger public health or welfare. Once a category is included on the list, Section 111(b)(1)(B) requires EPA to promulgate a federal standard of performance for new sources within the category, also known as a New Source Performance Standard ("NSPS"). 42 U.S.C. § 7411(b)(1)(A).

28. After promulgation of a NSPS, Section 111(e) makes it unlawful for any owner or operator of any new source subject to the NSPS to operate the source in violation of the standard. 42 U.S.C. § 7411(e).

29. EPA's regulations at 40 C.F.R. Part 60, Subpart A contain general provisions applicable to all NSPS sources, including the obligation to conduct performance tests at each subject source. Subpart A provides that a new standard of performance shall apply to any affected facility at which construction commenced after the promulgation of the standard, or if

earlier, after the date of publication of a proposed standard. Subpart A of the EPA's NSPS regulations also requires operators to provide notice of the date of construction and operation of an affected facility. 40 C.F.R. § 60.7.

30. ADM's plants identified in Paragraph 9 include "stationary source(s)" within the meaning of Sections 111(a)(3) of the Act, 42 U.S.C. §§ 7411(a)(3) and 7602(z).

31. ADM's plants identified in Paragraph 9 include "new source(s)" as that term is defined at Section 111(a)(2) of the Act, 42 U.S.C. § 7411 (a)(2), and therefore subject to the requirements of NSPS, Subpart A.

32. The following NSPS provisions are applicable to ADM's facilities:

- a. Steam generating units under 40 C.F.R. Part 60, Subpart Db (Industrial-Commercial-Institutional Steam Generating Units);
- b. Steam generating units under 40 C.F.R. Part 60, Subpart Dc (Small Industrial-Commercial-Institutional Steam Generating Units);
- c. Storage vessels under 40 C.F.R. Part 60, Subpart Kb (Volatile Organic Liquid Storage Vessels);
- d. Process units under 40 C.F.R. Part 60, Subpart VV (Equipment Leaks of VOC);
- e. Grain terminal and storage elevators under 40 C.F.R. Part 60 Subpart DD (Standards of Performance for Grain Elevators); and
- f. Affected facilities at coal preparation plants processing more than 200 tons per day under 40 C.F.R. Part 60, Subpart Y (Standards of Performance for Coal Preparation Plants).

33. The EPA's regulations at 40 C.F.R. Part 60, Subpart A, Section 60.2 define an

“affected facility”, with reference to a stationary source, as any apparatus to which a standard is applicable.

34. Section 113(b) of the CAA, 42 U.S.C. § 7413(b), authorizes the United States to commence a civil action for the assessment of a civil penalty of up to \$25,000 per day for each violation whenever any person violates any requirement the CAA. This amount increases to \$27,500 per day for violations occurring on and after January 31, 1997. See 40 C.F.R. § 19. Section 113(b) of the CAA also authorizes the United States to enjoin violations of the CAA.

The Emergency Planning and Community Right to Know Act

35. The Emergency Planning and Community Right to Know Act (“EPCRA”), contains provisions for reporting both accidental and nonaccidental releases of toxic chemicals. 42 U.S.C. § 11023. Section 313 of EPCRA, 42 U.S.C. § 11023 requires certain manufacturers, processors and users of designated toxic chemicals to annually report emissions of those chemicals to the air, water, and land. These annual reports must be sent to the EPA and to designated State agencies.

36. The Administrator of EPA is authorized to promulgate regulations to carry out the provisions of EPCRA. 42 U.S.C. § 11048. On February 16, 1988, EPA published final toxic chemical release reporting regulations, the Toxic Chemical Release Inventory Reporting Form (EPA Form R) and Instructions (40 CFR Part 372). 53 Fed. Reg. 4525 (1988). The following state agencies are designated to receive the EPA Form Rs: the Iowa Department of Natural Resources; the Nebraska Department of Environmental Quality; the North Dakota Department of Health; the Illinois EPA; the North Carolina Department of Environment and Natural Resources, and; the Minnesota Pollution Control Agency are designated as the state agencies to receive the

EPA Form Rs.

37. Pursuant to Section 313(a) of EPCRA and 40 C.F.R. § 372.30, affected owners or operators of a facility are required to complete a Toxic Chemical Release Inventory Reporting Form, EPA Form 9350-1 (1-90) (Form R), for each toxic chemical listed under 40 C.F.R. § 372.65 that was manufactured, imported, processed, or otherwise used in quantities exceeding the established toxic chemical thresholds set forth in 40 C.F.R. § 372.25.

38. Section 313 (b) of EPCRA provides that this reporting requirement is applicable to facilities that have ten or more full-time employees, are covered in a Standard Industrial Classification ("SIC"); and manufactured, imported, processed or otherwise used a toxic chemical listed under Section 313 (c) of EPCRA and 40 C.F.R. § 372.65 in excess of the threshold quantity. Threshold quantities for toxic chemicals are described at Section 313 (f) of EPCRA and 40 C.F.R. § 372.25.

39. Section 325(c) of EPCRA, 42 U.S.C. § 11045(c) provides that the Administrator of EPA may assess civil administrative penalties for violations of section 313 of EPCRA. Any person who violates any requirement of section 313 is liable for a civil penalty in an amount not to exceed \$25,000 for each violation prior to January 31, 1997, and \$27,500 per day for each violation after January 30, 1997, pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990, 28 U.S.C. § 2461, as amended by 31 U.S.C. § 3701. Each day a violation continues constitutes a separate violation.

FIRST CLAIM FOR RELIEF
(Oilseed Plants - PSD Violations)

40. Paragraphs 1 through 39 are realleged and incorporated herein by reference.

41. At all relevant times, ADM owned and operated the following twenty-two (22) plants for processing soybeans:

- a. Decatur West, Illinois
- b. Decatur East, Illinois
- c. Des Moines, Iowa
- d. Fostoria, Ohio
- e. Frankfort, Indiana
- f. Fredonia, Kansas (now closed)
- g. Fremont, Nebraska
- h. Galesburg, Illinois
- i. Helena, Arkansas (now closed)
- j. Kershaw, South Carolina
- k. Lincoln, Nebraska
- l. Little Rock, Arkansas
- m. Mankato, Minnesota
- n. Mexico, Missouri
- o. North Kansas City, Missouri
- p. Quincy East, Illinois
- q. Quincy West, Illinois
- r. Taylorville, Illinois
- s. Valdosta, Georgia
- t. Champaign, Illinois (now closed)
- u. Clarksdale, Mississippi (now closed)
- v. Granite City, Illinois (now closed)

42. ADM owns and operates the following twelve (12) plants for processing corn germ, cottonseeds, canola and sunflower seeds:

- a. Clinton, Iowa (corn germ)
- b. Decatur, Illinois (corn germ)
- c. Goodland, Kansas (sunflower seeds)
- d. Richmond, Texas (cottonseed)
- e. Velva, North Dakota (canola)
- f. Memphis, Tennessee (cottonseeds)
- g. Valdosta, Georgia (cottonseeds)
- h. Quanah, Texas (cottonseed) (now closed)
- i. Sweetwater, Texas (cottonseed) (now closed)
- j. Levelland, Texas (cottonseed) (now closed)
- k. North Little Rock, Arkansas (cottonseed) (now closed)
- l. Port Gibson, Mississippi (cottonseed) (now closed)

43. ADM owns and operates the following five (5) plants for multi-seed processing:

- a. Enderlin, North Dakota (canola, soy, and sunflower)
- b. Lubbock, Texas (corn germ, cottonseed, and peanuts)
- c. Red Wing, Minnesota (canola, flax, and sunflower)
- d. Augusta, Georgia (peanut, corn germ, canola, soybean) (now closed)
- e. Lubbock North, Texas (corn germ, cottonseed, and peanuts) (now closed)

44. ADM produces crude vegetable oil and meal products by removing oil from the oilseeds identified in Paragraphs 41-43 above. Some oil extraction is accomplished through direct contact with an organic solvent.

45. ADM's oilseed plants which use solvent extraction for vegetable oil production are major sources of n-hexane, a hazardous air pollutant ("HAP") as defined by Section § 112(b)(1) of the Act, 42 U.S.C. § 7412 (b)(1), and are therefore subject to the requirements of 40 C.F.R. Part 63, Subpart GGGG (vegetable oil production NESHAP).

46. ADM's oilseed plants identified in Paragraphs 41 through 43, are major sources of VOCs, subject to the PSD requirements of 40 C.F.R. Part 52.

47. Sources of VOC and HAP emissions at ADM's oilseed plants include the solvent recovery system, meal dryers, coolers, residual solvent in meal and oil products, leaking equipment components, storage tanks, wastewater, and plant operations during process startup, shutdowns and malfunctions. VOCs are a precursor to ozone, which is a criteria air pollutant.

48. ADM operates combustion sources at or in support of all oilseed plants identified in Paragraphs 41 through 43, such as industrial boilers, process heaters and burners, which are sources of NO_x, PM and PM₁₀, CO and SO₂ emissions.

49. EPA has conducted investigations of ADM's oilseed facilities, which included

site inspections, review of permitting history and emissions data, and analysis of other relevant information obtained from ADM concerning construction and operation of the oilseed facilities. The United States alleges the following based on the results of EPA's investigation, information and belief:

50. Section 169(1) of the CAA, 42 U.S.C. § 7479(1), defines "major emitting facility" as a source with the potential to emit 250 TPY or more of any air pollutant. ADM's oilseed facilities are major emitting facilities with the potential to emit in excess of 250 TPY of one or more criteria air pollutants, or ADM subsequently modified each facility to increase its emission of one or more criteria air pollutant over the 250 TPY threshold, which is defined as a "major modification" pursuant to 40 C.F.R. § 52.21(b)(1)(i)(c).

51. Since its initial construction or major modification of the oilseed facilities, ADM has been in violation of Section 165(a) of the CAA, 42 U.S.C. § 7475(a), and 40 C.F.R. § 52.21, and the corresponding state implementation plans, by failing to undergo PSD review for numerous modifications which caused significant emissions increases of criteria pollutants, by failing to obtain a permit, and failing to install the best available control technology for control of such criteria air pollutants.

52. Unless restrained by an Order of the Court, these violations of the CAA and the implementing regulations are likely to continue.

53. As provided in 42 U.S.C. § 7413(b), ADM's violations, as set forth above, subject it to injunctive relief and civil penalties of up to \$25,000 per day for each violation of the Act prior to January 31, 1997, and \$27,500 per day for each violation after January 30, 1997, pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990, 28 U.S.C. § 2461, as

amended by 31 U.S.C. § 3701.

SECOND CLAIM FOR RELIEF
(Corn Mill Plants - PSD violations)

54. Paragraphs 1 through 39 are realleged and incorporated herein by reference.

55. ADM owns and operates the following five (5) wet corn mill plants for the production of corn products, including ethanol:

- a. Cedar Rapids, Iowa
- b. Clinton, Iowa
- c. Columbus, Nebraska
- d. Decatur, Illinois
- e. Marshall, Minnesota

56. ADM owns and operates two dry corn mill plants for the production of corn products, including ethanol:

- a. Peoria, Illinois
- b. Walhalla, North Dakota

57. ADM's corn processing plants produce a number of products from corn, including starch, sweeteners, germ, ethanol, and animal feed. The manufacturing process at ADM's corn processing plants results in emissions of significant quantities of regulated air pollutants, including NO_x, CO, PM, SO₂, VOCs and HAPs. The primary sources of these emissions are the dryers, carbon furnaces, fermentation units, boilers, and ethanol load-out systems. These plants are subject to the PSD requirements of 40 C.F.R. Part 52 and applicable SIP requirements.

58. ADM operates combustion sources at all corn mill plants identified in Paragraphs 55 through 56, such as industrial boilers, process heaters and burners, which are sources of NO_x, PM and PM₁₀, CO and SO₂ emissions.

59. EPA has conducted investigations of ADM's corn mill plants, which included site

inspections, review of permitting history and emissions data, and analysis of other relevant information obtained from ADM concerning construction and operation of the corn mill plants. The United States alleges the following based on the results of EPA's investigation, information and belief:

60. Section 169(1) of the CAA, 42 U.S.C. § 7479(1), defines "major emitting facility" as a source with the potential to emit 250 TPY or more of any air pollutant. ADM's corn mill plants are major emitting facilities with the potential to emit in excess of 250 TPY of one or more criteria pollutants, or ADM subsequently modified each facility to increase its emission of one or more criteria pollutant over the 250 TPY threshold, which is defined as a "major modification" pursuant to 40 C.F.R. § 52.21(b)(1)(i)(c).

61. Since its initial construction or major modification of the corn mill plants, ADM has been in violation of Section 165(a) of the CAA, 42 U.S.C. § 7475(a), and 40 C.F.R. § 52.21, and the corresponding state implementation plans, by failing to undergo PSD review for all emission sources, by failing to obtain a permit, and failing to install the best available control technology the control of all criteria pollutants that it had the potential to emit in significant amounts.

62. Unless restrained by an Order of the Court, these violations of the CAA and the implementing regulations are likely to continue.

63. As provided in 42 U.S.C. § 7413(b), ADM's violations, as set forth above, subject it to injunctive relief and civil penalties of up to \$25,000 per day for each violation of the Act prior to January 31, 1997, and \$27,500 per day for each violation after January 30, 1997, pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990, 28 U.S.C. § 2461, as

amended by 31 U.S.C. § 3701.

THIRD CLAIM FOR RELIEF
(Misc. Processing - PSD Violations)

64. Paragraphs 1 through 39 are realleged and incorporated herein by reference.

65. ADM owns and operates the following six (6) plants for the manufacture of the following specialty products:

- a. Southport, North Carolina (Citric Acid)
- b. Decatur, Illinois (BioProducts)
- c. Keokuk, Iowa (Wheat Gluten)
- d. Decatur, Illinois (Vitamin E)
- e. Decatur, Illinois (Vitamin C)
- f. Decatur, Illinois (De-oiled Lecithin)

66. 63. ADM's manufacturing process at the specialty product plants identified in Paragraph 65 are significant sources of emission of regulated air pollutants, including NO_x, CO, PM, SO₂, VOCs and HAPs. These plants are subject to the PSD requirements of 40 C.F.R. Part 52 and applicable SIP requirements.

67. ADM operates combustion sources at or in support of all specialty products plants identified in Paragraph 65, such as industrial boilers, process heaters and burners, which are sources of NO_x, PM and PM₁₀, CO and SO₂ emissions.

68. EPA has conducted investigations of ADM's specialty product plants, which included site inspections, review of permitting history and emissions data, and analysis of other relevant information obtained from ADM concerning construction and operation of the oilseed facilities. The United States alleges the following based on the results of EPA's investigation, information and belief:

69. Section 169(1) of the CAA, 42 U.S.C. § 7479(1), defines "major emitting facility"

as a source with the potential to emit 250 TPY or more of any air pollutant. ADM's specialty products plants are major emitting facilities with the potential to emit in excess of 250 TPY of one or more criteria air pollutants, or ADM subsequently modified each facility to increase its emission of one or more criteria pollutant over the 250 TPY threshold, , which is defined as a "major modification" pursuant to 40 C.F.R. § 52.21(b)(1)(i)(c).

70. Since its initial construction or major modification of the specialty products plants, ADM has been in violation of Section 165(a) of the CAA, 42 U.S.C. § 7475(a), and 40 C.F.R. § 52.21, and the corresponding state implementation plans, by failing to undergo PSD review for all emission sources, by failing to obtain a permit, and failing to install the best available control technology the control of all criteria pollutants that it had the potential to emit in significant amounts.

71. Unless restrained by an Order of the Court, these violations of the CAA and the implementing regulations are likely to continue.

72. As provided in 42 U.S.C. § 7413(b), ADM's violations, as set forth above, subject it to injunctive relief and civil penalties of up to \$25,000 per day for each violation of the Act prior to January 31, 1997, and \$27,500 per day for each violation after January 30, 1997, pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990, 28 U.S.C. § 2461, as amended by 31 U.S.C. § 3701.

FOURTH CLAIM FOR RELIEF
(NSPS violations)

73. Paragraphs 1 through 39 are realleged and incorporated herein by reference.

74. The ADM facilities identified in Paragraph 9 include "new sources" as that term

is defined at Section 111(a)(2) of the Act, 42 U.S.C. § 7411 (a)(2), which are "affected facilities" that are subject to the performance standards of NSPS.

75. ADM owns and operates industrial-commercial-institutional steam generating units that commenced construction, modification, or reconstruction after June 19, 1984, with the heat input capacity from fuels combusted in the steam generating unit of greater than 29 Megawatts ("MW") (100 million Btu/hour).

76. ADM's industrial-commercial-institutional steam generating units identified in Paragraph 75, are therefore subject to the performance standards of 40 C.F.R. Part 60, Subpart Db, sections 60.40b through 60.49b.

77. ADM owns and operates small industrial-commercial-institutional steam generating units that commenced construction, modification, or reconstruction after June 9, 1989, with the heat input capacity from fuels combusted in the steam generating unit of 29 MW (100 million Btu/hour) or less, but greater than or equal to 2.9 MW (10 million Btu/hour).

78. ADM's industrial-commercial-institutional steam generating units identified in Paragraph 77, are therefore subject to the performance standards of 40 C.F.R. Part 60, Subpart Dc, sections 60.40c through 60.48c.

79. ADM owns and operates volatile organic liquid storage vessels, including petroleum liquid storage vessels, for which construction, reconstruction, or modification commenced after July 23, 1984.

80. ADM's volatile organic liquid storage vessels identified in Paragraph 79, including petroleum liquid storage vessels, are therefore subject to the performance standards set forth in 40 C.F.R. Part 60, Subpart Kb, sections 60.110b through 60.117b.

81. ADM owns and operates equipment in VOC service for the manufacture of synthetic organic chemicals, which commenced construction or modification after January 5, 1981.

82. ADM's equipment identified in Paragraph 81 is therefore subject to the performance standards of 40 C.F.R. Part 60, Subpart VV.

83. ADM owns and operates grain terminals and storage elevators which commenced construction, modification, or reconstruction after August 3, 1978.

84. ADM's grain storage elevators are therefore subject to the performance standards under 40 C.F.R. Part 60 Subpart DD, Sections 60.300 through 60.304.

85. ADM owns and operates coal preparation plants which process more than 200 tons per day.

86. ADM's coal preparation plants commenced construction or modification after October 24, 1974.

87. ADM's coal preparation plants are therefore subject to the performance standards under 40 C.F.R. Part 60 Subpart Y, sections 60.250 through 60.254.

88. EPA has conducted investigations of one or more of ADM's NSPS affected facilities, identified in Paragraphs 75 through 87, which included site inspections, review of permitting history and emissions data, and analysis of other relevant information concerning ADM's construction and operation of these facilities. Based on the results of EPA's investigation, information and belief:

89. ADM has failed and continues to fail to meet the emissions testing, emissions monitoring, operations monitoring, emissions limits, recordkeeping and reporting standards set

forth in NSPS 40 C.F.R. Part 60, Subparts Db, Dc, DD, Kb, VV, and Y, in violation of Section 111 or the CAA.

90. Unless restrained by an Order of the Court, these violations of the CAA and the implementing regulations are likely to continue.

91. As provided in 42 U.S.C. § 7413(b), ADM's violations, as set forth above, subject it to injunctive relief and civil penalties of up to \$25,000 per day for each violation of the Act prior to January 31, 1997, and \$27,500 per day for each violation after January 30, 1997, pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990, 28 U.S.C. § 2461, as amended by 31 U.S.C. § 3701.

FIFTH CLAIM FOR RELIEF
(Minor NSR Violations)

92. Paragraphs 1 through 91 are realleged and incorporated herein by reference.

93. EPA has conducted investigations of ADM's plants as listed and described above, which included site inspections, review of permitting history and emissions data, and analysis of other relevant information obtained from ADM concerning construction and operation of such plants. The United States alleges the following based on the results of EPA's investigation, information and belief:

94. Since initial construction at such plants, ADM has generated emissions of various criteria air pollutants and has engaged in diverse construction activities involving changes in such emissions, air quality impacts, or both.

95. By operating such plants, ADM has violated the permitting programs that EPA has approved into the relevant SIP pursuant to section 110(a)(2)(C), 42 U.S.C. § 7410(a)(2)(C),

and 40 C.F.R. § 51.160, by exceeding the limits, terms and conditions in permits issued pursuant to such programs, particularly with respect to VOCs and CO.

96. By performing certain construction activities, ADM has violated the permitting programs that EPA has approved into the relevant SIP pursuant to section 110(a)(2)(C), 42 U.S.C. § 7410(a)(2)(C), and 40 C.F.R. § 51.160, by failing to apply for and obtain necessary permits prior to construction, by failing to represent as necessary in its applications the emission levels or air quality consequences of proposed construction, by failing to provide sufficient information for full assessment of emission fees, or some combination of thereof.

97. Unless restrained by an Order of the Court, these violations of the Act and implementing regulations are likely to continue.

98. As provided in 42 U.S.C. § 7413(b), ADM's violations, as set forth above, subject it to injunctive relief and civil penalties of up to \$25,000 per day for each violation of the Act prior to January 31, 1997, and \$27,500 per day for each violation after January 30, 1997, pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990, 28 U.S.C. § 2461, as amended by 31 U.S.C. § 3701.

SIXTH CLAIM FOR RELIEF
EPCRA Violations

99. Paragraphs 1 through 39 are realleged and incorporated herein by reference.

100. Pursuant to Section 313(a) of EPCRA and 40 C.F.R. § 372.30, an affected owner or operator of a facility is required to complete a Toxic Chemical Release Inventory Reporting Form, EPA Form 9350-1 (1-90) ("Form R"), for each toxic chemical listed under 40 C.F.R. § 372.65 that was manufactured, imported, processed, or otherwise used in quantities exceeding

the established toxic chemical thresholds set forth in 40 C.F.R. § 372.25.

101. Certain ADM facilities are included in the industrial organic chemical sector which is assigned by the EPA a Standard Industrial Classification Code of 2869. These facilities include, but are not limited too:

- a. SouthPort, North Carolina
- b. Decatur, Illinois
- c. Peoria, Illinois
- d. Columbus, Nebraska
- e. Marshall, Minnesota
- f. Mankato, Minnesota
- g. Clinton, Iowa
- h. Cedar Rapids, Iowa
- i. Keokuk, Iowa
- j. Walhalla, North Dakota

102. During the calendar years 1997 through 2001, ADM manufactured or used one or more toxic chemicals at one or more of its facilities listed in the preceding paragraph in excess of the reporting quantity specified in the EPCRA regulations. (See, 40 C.F.R. § 372.25). Therefore, ADM was required to include information on any release of such toxic chemicals in its annual Form R for each affected facility. However, ADM failed to report releases of these toxic chemicals in its Form Rs which were submitted for the years 1997 through 2001 for one or more of its facilities listed in the preceding paragraph. Therefore, ADM violated Section 313 of EPCRA, 42 U.S.C. § 11023, by failing to submit a complete toxic chemical release form for one or more of ADM's facilities.

103. As provided by Section 325(c) of EPCRA, 42 U.S.C. § 11045(c) ADM's violations as set forth above, subject it to civil administrative penalties in an amount not to exceed \$25,000 per day for each day of violation and \$27,500 per day for each violation after

January 30, 1997, pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990, 28 U.S.C. § 2461, as amended by 31 U.S.C. § 3701.

SEVENTH CLAIM FOR RELIEF
Nonattainment New Source Review

104. Paragraphs 1 through 39 are realleged and incorporated herein by reference.

105. One or more of ADM's plants at issue is located in or near a designated nonattainment area and emits one or more pollutants for which the area was designated nonattainment, and may be subject in whole or in part to one or more construction and/or operating permits issued pursuant to such an approved program, including emission limitations and other terms and conditions applicable to criteria pollutants such as VOCs and CO.

106. EPA has conducted investigations of ADM's plants as listed and described above, which included site inspections, review of permitting history and emissions data, and analysis of other relevant information obtained from ADM concerning construction and operation of such plants. The United States alleges the following based on the results of EPA's investigation, information and belief:

107. Since initial construction at one or more plants located in or near designated nonattainment areas, ADM has operated such plant or plants so as to generate emissions of one or more pollutants for which the area or areas are designated nonattainment, and has engaged in construction activities involving changes in such emissions, air quality impacts, or both.

108. As such, ADM has violated the nonattainment-area permitting programs that EPA has approved into the relevant SIP pursuant to section 110(a)(2)(C) and (I), 42 U.S.C. § 7410(a)(2)(C) & (I), and 40 C.F.R. § 51.165, by failing to comply with limits, terms and

conditions in permits issued pursuant to such programs; by failing to apply for and obtain necessary permits prior to construction; by failing to represent as necessary in its applications the emission levels or air quality consequences of proposed construction; by failing to provide sufficient information for full assessment of emission fees, or some combination of thereof.

109. Unless restrained by an Order of the Court, these violations of the Act and implementing regulations are likely to continue.

110. As provided in 42 U.S.C. § 7413(b), ADM's violations, as set forth above, subject it to injunctive relief and civil penalties in an amount not to exceed \$25,000 per day for each day of violation and \$27,500 per day for each violation after January 30, 1997, pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990, 28 U.S.C. § 2461, as amended by 31 U.S.C. § 3701.

EIGHTH CLAIM FOR RELIEF

Violation of North Dakota Title V Operating Permit, Walhalla Facility

111. Paragraphs 1 through 39 are realleged and incorporated by reference herein.

112. EPA has conducted investigations of the ADM Walhalla Corn Processing Plant, and based on those investigations, information and belief, alleges the following:

113. The Walhalla Corn Processing Plant has authority to operate under Air Pollution Control Title V Permit to Operate, No. T5-O86005 which the North Dakota Department of Health ("NDDH") issued and updated pursuant to North Dakota Administrative Code, § 33-15-14-06(5)(a)(3)(a) on September 13, 1999. Sections of the North Dakota Administrative Code have been approved by EPA pursuant to Section 110 of the CAA, 42 U.S.C. § 7410, as identified

at 40 C.F.R. § 52.1820, and is commonly referred to as the North Dakota SIP. The North Dakota Operating Permits Program was approved by the EPA as consistent with the requirements of the CAA, Title V, at 40 C.F.R. 70, Appendix A.

114. The Walhalla Corn Processing Plant Title V Operating Permit, Special Condition 3. A., Emission Unit(s) Limits, specifies a NOx emissions limit of 0.43 pounds per hour ("lb/hr") for McDermott DGS natural gas dryer identified in the permit as emission unit EU22 and emission point EP22.

115. On February 28, 2001, ADM conducted an initial emissions tests on the DGS dryer EU22/EP22 which measured NOx emissions at 17.8 lb/hr. ADM conducted a subsequent emissions test on July 25, 2001 which measured NOx emissions at 7.5 lb/hr. Both tests indicated that ADM was exceeding its permitted emissions limit for that unit by more than 7 lbs/hr.

116. The Walhalla Corn Processing Plant has on numerous occasions since the issuance of its Title V permit failed to demonstrate that NOx emissions from its McDermott DGS dryer EU22/EP22 were in compliance with the authorized NOx emissions limits established in its Title V Operating Permit.

117. Pursuant to CAA, Section 502(a), 42 U.S.C. § 7661(a), it is unlawful for any person to violate any requirement of a permit which is issued pursuant to Title V of the CAA.

118. Unless restrained by an Order of the Court, these violations of the CAA, as implemented through the EPA-approved North Dakota SIP, are likely to continue.

119. As provided in 42 U.S.C. § 7413(b), ADM's violations, as set forth above, subject it to injunctive relief and civil penalties of up to \$25,000 per day for each violation of the Act prior to January 31, 1997, and \$27,500 per day for each violation after January 30, 1997,

pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990, 28 U.S.C. § 2461, as amended by 31 U.S.C. § 3701.

NINTH CLAIM FOR RELIEF

SIP and Permit Violations at Vitamin E Plant, Decatur Illinois Facility

120. Paragraphs 1 through 39 are realleged and incorporated by reference herein.

121. EPA has conducted investigations of the ADM Decatur and Peoria Facility, both located in Illinois, and based on those investigations, information and belief, alleges the following:

122. Sections of the Illinois Administrative Code have been approved by EPA pursuant to Section 110 of the CAA, 42 U.S.C. § 7410, as identified at 40 C.F.R. § 52. 720, and are commonly referred to as the Illinois SIP. (See, 37 Fed. Reg. 10862, May 31, 1972.) Illinois' Operating Permits Program was approved by the EPA as consistent with the requirements of the CAA, Title V, at 40 C.F.R. 70, Appendix A. (See, 66 Fed. Reg. 62949, December 4, 2001.) Pursuant to the EPA's approval of the Illinois Operating Permits Program, certain air permits issued by Illinois are federally enforceable. It is unlawful for any person to fail to comply with any approved provision of a SIP or a federally enforceable permit. (40 C.F.R. § 52.23)

123. ADM constitutes a "person" as defined by the approved Illinois SIP, as approved by EPA pursuant to Section 110 of the CAA, 42 U.S.C. § 7410, and identified at 40 C.F.R. § 52.720. (See, 37 Fed. Reg. 10862, May 27, 1972).

124. The approved Illinois SIP specifies that no person shall cause or threaten or allow the discharge or emission of any contaminant into the environment to cause or tend to cause air pollution or so as to prevent the attainment or maintenance of any applicable ambient air quality

standard. (35 Ill. Adm.Code § 201. 141 approved at 37 Fed. Reg. 10862, May 31, 1972). The approved Illinois SIP also provides that no person shall allow construction or modification of any new source or air pollution control device without obtaining a construction permit. (35 Ill. Adm.Code § 201. 142, approved at 37 Fed. Reg. 10862, May 31, 1972.) The approved Illinois SIP states that it is unlawful to operate any new source or new air pollution control equipment for which a construction permit is required, without first obtaining an operating permit. (35 Ill. Adm.Code § 201. 143, approved at 37 Fed. Reg. 10862, May 31, 1972.)

125. Any violation of a permit condition issued pursuant to the approved Illinois SIP is a violation of the SIP. A violation of a SIP requirement is a violation of Section 110 of the Clean Air Act, 42 U.S.C. § 7410. As such, a violation of a permit condition is a violation of Section 110 of the Clean Air Act, 42 U.S.C. § 7410 for failure to comply with the federally enforceable Illinois SIP.

126. ADM operates a Vitamin E plant at the Decatur Facility pursuant to Construction and Operating Permit No. 93120004 which limits VOC emissions at the Vitamin E plant to 16.2 tons per year. Since at least January 3, 1996 through present, ADM has caused or allowed emissions of VOCs from the Vitamin E plant in excess of 40 tons per year. For at least 7 years ADM has been emitting more than 24 tons per year of VOCs than its permit allows.

127. As a result, ADM has caused, threatened or allowed the emissions of VOC from the Vitamin E plant into the environment so as to cause or tend to cause air pollution in violation of the Illinois SIP, thereby violating Section 110 of the Clean Air Act, 42 U.S.C. § 7410.

128. By exceeding its operating permit from at least January 3, 1996 through October 22, 1998, ADM violated the approved Illinois SIP. As such, ADM is violating Section 110 of

the Clean Air Act, 42 U.S.C. § 7410 for failing to comply with the federally enforceable Illinois SIP.

129. As provided in 42 U.S.C. § 7413(b), ADM's violations, as set forth above, subject it to civil penalties of up to \$25,000 per day for each violation of the Act prior to January 31, 1997, and \$27,500 per day for each violation after January 30, 1997, pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990, 28 U.S.C. § 2461, as amended by 31 U.S.C. § 3701.

TENTH CLAIM FOR RELIEF

SIP, Permit and PSD Violations at Vitamin C Plant, Decatur, Illinois Facility

130. Paragraphs 1 through 39 and 120 through 125 are realleged and incorporated herein by reference.

131. On November 4 and 10, 1994, ADM submitted to the Illinois EPA a permit application to construct and operate emission sources and air pollution control equipment to facilitate the manufacture of ascorbic acid, or vitamin C at its Decatur Facility. The permit application indicated the vitamin C process is a minor source for all regulated pollutants, including VOC. Based upon data contained within the application, the Illinois EPA issued to ADM, on December 27, 1994, construction permit number 94110004 limiting VOC emissions to 39.9 tons per year. Construction of the plant commenced in 1995.

132. On August 7, 1998, the Illinois EPA received from ADM a PSD permit application which indicated that VOC emissions at the vitamin C plant were possibly in excess of its construction permit limits and the 40 ton per year PSD threshold limit for VOC. Data supporting the PSD permit application specified VOC emissions generated by the vitamin C plant totaled 167.7 tons per year. These emissions far exceed the permitted limits for VOC.

133. Beginning in 1995 through December 27, 1999, ADM threatened the emission of VOCs into the environment, in excess of 40 tons per year, during operation of its vitamin C plant.

134. By failing to first conduct a BACT review and apply for and obtain a PSD permit prior to the construction and operation of the vitamin C plant, ADM threatened the emission of VOC from the Vitamin C plant into the environment so as to cause or threaten to cause air pollution in violation of the Illinois SIP, thereby violating Section 110 of the Clean Air Act, 42 U.S.C. §7410.

135. As provided in 42 U.S.C. § 7413(b), ADM's violations, as set forth above, subject it to injunctive relief and civil penalties of up to \$25,000 per day for each violation of the Act prior to January 31, 1997, and \$27,500 per day for each violation after January 30, 1997, pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990, 28 U.S.C. § 2461, as amended by 31 U.S.C. § 3701.

ELEVENTH CLAIM FOR RELIEF
SIP Violations at Alcohol Plant, Decatur Illinois Facility

136. Paragraphs 1 through 39 and 120 through 125 are realleged and incorporated by reference herein.

137. Defendant operates a facility, which produces alcohol ("the Alcohol plant"), located in Decatur, Illinois. Emissions from the alcohol plant include VOC. In 1991 ADM received a construction permit to expand the alcohol plant production from 732,000 to 800,000 gallons per day. According to ADM's permit application all primary and secondary fermentation gasses were to be directed through a carbon dioxide ("CO₂") scrubber, and the VOC emissions

from that scrubber were limited to 7.38 pounds per hour or 32.3 tons per year (TPY). The propagators and beer wells were not permitted since they were not believed to be air emission sources. While the secondary fermenters were originally connected to the CO₂ scrubber, sometime around 1991 the fiberglass ducting from those sources deteriorated. ADM failed to repair the ducting for those sources. Instead, ADM vented the emissions from the secondary fermenters to the outside without any control. At that time ADM believed that, due to the low airflow through these fermenters, the emissions would be relatively insignificant. During stack testing associated with preparation of a permit application for again expanding the alcohol plant, ADM learned that emissions from the propagators, beer wells and secondary fermenters were much higher than earlier believed. While the airflow from the secondary fermenters is small, the VOC concentration is much higher than anticipated. Further, while individually the beer wells and propagators are small sources, there are some emissions from them and, given the large number of such sources, their cumulative emissions are significant.

138. As indicated in ADM's Annual Emission Report, the measured VOC emissions for the beer wells and propagators, and the secondary fermenters, are 178 TPY and 549 TPY, respectively. Since at least 1991, and continuing through the present, ADM has caused or allowed the emission of VOC from its Alcohol plant in excess of 40 tons per year.

139. By failing to first conduct a BACT review and apply for and obtain a PSD permit prior to the modification and operation of the Alcohol plant, ADM threatened caused the emission of VOC from the Alcohol plant into the environment so as to cause or threaten to cause air pollution in violation of the Illinois SIP, thereby violating Section 110 of the Clean Air Act, 42 U.S.C. § 7410.

140. As provided in 42 U.S.C. §7413(b), ADM's violations, as set forth above, subject it to injunctive relief and civil penalties of up to \$25,000 per day for each violation of the Act prior to January 31, 1997, and \$27,500 per day for each violation after January 30, 1997, pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990, 28 U.S.C. § 2461, as amended by 31 U.S.C. § 3701.

TWELFTH CLAIM FOR RELIEF

SIP and Permit Violations at Xanthan Gum Plant, Decatur Illinois Facility

141. Paragraphs 1 through 39 and 120 through 125 are realleged and incorporated by reference herein.

142. ADM operates a Xanthan Gum plant at the Decatur Facility under Operating Permit No. 94030062 which incorporates a VOC limit of 24.6 tons per year. From at least 1995 through May 5, 2000, ADM caused or allowed VOC emissions from the Xanthan Gum plant in excess of 40 tons per year. Therefore, ADM exceeded its VOC emissions limit by at least 13.6 tons per year for approximately five years.

143. As a result of these exceedances, ADM has caused, threatened or allowed the emissions of VOCs from the Xanthan Gum plant into the environment so as to cause or tend to cause air pollution in violation of the approved Illinois SIP thereby violating Section 110 of the Clean Air Act, 42 U.S.C. § 7410.

144. ADM operated the Xanthan Gum plant since at least 1995 through May 5, 2000, in violation of its operating permit issued pursuant to the approved Illinois SIP. As such, ADM violated Section 110 of the Clean Air Act, 42 U.S.C. § 7410, for failure to comply with the federally enforceable Illinois SIP.

145. As provided in 42 U.S.C. § 7413(b), ADM's violations, as set forth above, subject it to civil penalties of up to \$25,000 per day for each violation of the Act prior to January 31, 1997, and \$27,500 per day for each violation after January 30, 1997, pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990, 28 U.S.C. § 2461, as amended by 31 U.S.C. § 3701.

THIRTEENTH CLAIM FOR RELIEF

SIP and Permit Violations at Deoiled Lecithin Plant, Decatur Illinois Facility

146. Paragraphs 1 through 39 and 120 through 125 are realleged and incorporated by reference herein.

147. ADM operates a Deoiled Lecithin plant at the Decatur Facility pursuant to Construction Permit No. 95050025 which limits VOC emissions from the Deoiled Lecithin plant to an amount below the PSD threshold of 40 tons per year. Since at least July 1997 through December 7, 1999, ADM emitted VOCs in excess of the PSD threshold in violation of the approved Illinois SIP requirement to obtain an operating permit before constructing a new emission source. As such, ADM is violating Section 110 of the Clean Air Act, 42 U.S.C. § 7410 by failing to comply with the federally enforceable Illinois SIP.

148. ADM constructed or modified a baghouse control unit for a fluid bed dryer and the lecithin packaging unit at the Deoiled Lecithin plant without first obtaining a construction permit for a new air pollution control device in violation of the approved Illinois SIP. As such, ADM is violating Section 110 of the Clean Air Act, 42 U.S.C. § 7410, for failure to comply with the federally enforceable Illinois SIP.

149. As provided in 42 U.S.C. § 7413(b), ADM's violations, as set forth above, subject it to civil penalties of up to \$25,000 per day for each violation of the Act prior to January 31, 1997,

and \$27,500 per day for each violation after January 30, 1997, pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990, 28 U.S.C. § 2461, as amended by 31 U.S.C. § 3701.

FOURTEENTH CLAIM FOR RELIEF

SIP and Permit Violations at Carbon Furnace Number 2 and 3, Decatur Illinois Facility

150. Paragraphs 1 through 39 and 120 through 125 are realleged and incorporated by reference herein.

151. On August 14, 1996 the Illinois EPA issued ADM Operating Permit No. 82110013, for the operation of carbon furnaces number 1, 2, and 3. This operating permit limited VOC and CO emissions for these carbon furnaces to 39.9 and 99.9 tons per year, respectively. On November 20, 2001, ADM submitted a PSD application to construct two recuperative thermal oxidizers to control emissions from the carbon furnaces. The data which supported the PSD application indicated that emissions of VOC and CO from each furnace totaled 258 tons per year and 1,190 tons per year, respectively. These emissions far exceed the permitted limits for VOC and CO.

152. By constructing or modifying carbon furnace numbers 2 and 3, equipment capable of causing or contributing to air pollution or designed to prevent air pollution, without first obtaining a permit from the Illinois EPA ADM violated the approved Illinois SIP. As such, ADM violated Section 110 of the Clean Air Act, 42 U.S.C. § 7410 by failing to comply with the federally enforceable Illinois SIP.

153. By operating carbon furnace numbers 2 and 3 without first obtaining an operating permit, ADM violated the approved Illinois SIP. As such, ADM violated Section 110 of the Clean Air Act, 42 U.S.C. § 7410 by failing to comply with the federally enforceable Illinois SIP.

154. As provided in 42 U.S.C. § 7413(b), ADM's violations, as set forth above, subject it to injunctive relief and civil penalties of up to \$25,000 per day for each violation of the Act prior to January 31, 1997, and \$27,500 per day for each violation after January 30, 1997, pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990, 28 U.S.C. § 2461, as amended by 31 U.S.C. § 3701.

FIFTEENTH CLAIM FOR RELIEF
SIP Violations, NO_x Exceedances, Peoria Illinois Facility

155. Paragraphs 1 through 39 and 120 through 125 are realleged and incorporated by reference herein.

156. On May 17, 1999, ADM submitted to EPA a letter regarding NO_x emissions data for various boilers at the Peoria Facility. The letter included actual NO_x emissions data from 1997 for various boilers. The EPA compared ADM's actual emissions data to ADM's NO_x permit limits for these sources.

157. On March 24, 1994 the Illinois EPA issued ADM Construction Permit Number 93080039 for Gas Boiler 6 at the Peoria Facility. The permit lists Boiler 6 as having a NO_x emission rate of 21 pounds per hour ("lbs/hour"), which equals 518 pounds per day ("lbs/day"). However, the actual emissions data reviewed by EPA measured NO_x emissions from this source as 745 lbs/day. ADM exceeded the NO_x limit by 3.76%.

158. As provided in 42 U.S.C. § 7413(b), ADM's violations, as set forth above, subject it to civil penalties of up to \$25,000 per day for each violation of the Act prior to January 31, 1997, and \$27,500 per day for each violation after January 30, 1997, pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990, 28 U.S.C. § 2461, as amended by 31 U.S.C. § 3701.

SIXTHTEENTH CLAIM FOR RELIEF
SIP Violations, NO_x Exceedances, Peoria Illinois Facility

159. Paragraphs 1 through 39 and 129 through 125 are realleged and incorporated by reference herein.

160. On March 26, 1996 the Illinois EPA issued the Peoria Facility Construction Permit # 95110113. The construction permit contains a NO_x emission limit of 218 lbs/day for Natural Gas-Fired Boiler Number 12. According to EPA's review of ADM's actual emissions data from 1997 for this boiler, ADM had an actual NO_x emission rate of 263 lbs/hr. Therefore, ADM exceeded its permit limit by 20.6%. ADM has exceeded its permit limit for NO_x emissions from Boiler 12, in violation of its operating permit issued pursuant to the approved Illinois SIP. As such, this is violation of Section 110 of the Clean Air Act, 42 U.S.C. § 7410 for failure to comply with the federally enforceable Illinois SIP.

161. As provided in 42 U.S.C. § 7413(b), ADM's violations, as set forth above, subject it to injunctive relief and civil penalties of up to \$25,000 per day for each violation of the Act prior to January 31, 1997, and \$27,500 per day for each violation after January 30, 1997, pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990, 28 U.S.C. § 2461, as amended by 31 U.S.C. § 3701.

SEVENTEENTH CLAIM FOR RELIEF
SIP Violations Opacity Limit Exceedances, Peoria Facility

162. Paragraphs 1 through 39 and 120 through 125 are realleged and incorporated by reference herein.

163. On December 29, 1992, EPA approved Title 35 IAC §§ 212.122 and 212.123 as part of the federally enforceable Illinois SIP. (57 Fed. Reg. 61834, March 1, 1993.)

164. Illinois SIP Title 35 IAC § 212.122, entitled "Limitations for Certain New Sources" applies to each new emission source which has an actual heat input greater than 250 mmbtu/hr. A "new emission source" is defined as any emission source for which construction began after April 14, 1972. (35 IAC § 201.102) Illinois SIP Title 35 IAC § 212.123, entitled "Limitations for All Other Sources," applies to any emission source that is not subject to 35 IAC § 212.122.

165. Illinois SIP Title 35 IAC § 212.123 provides an opacity limitation of 30% for smoke or other particulate matter emissions into the atmosphere from any emission source. The rule includes an exception which allows for the emission of smoke with opacity greater than 30%, but less than 60%, for a period totaling eight minutes in a 60 minute period. This exception is limited to one emission source per facility within a 1,000 foot radius, and only applies three times in a 24-hour period. Emissions from the feed dryers at ADM's Peoria Facility are subject to the opacity limit set forth at 35 IAC § 212.123.

166. Based on visual emissions readings by EPA personnel, on September 25, 1997 and April 7, 1999, ADM caused or allowed the emission of smoke or particulate matter with opacity greater than 30% into the atmosphere from an emission source at ADM's Peoria Facility for more than eight hours. As such, ADM violated the approved Illinois SIP.

167. As provided in 42 U.S.C. § 7413(b), ADM's violations, as set forth above, subject it to injunctive relief and civil penalties of up to \$25,000 per day for each violation of the Act prior to January 31, 1997, and \$27,500 per day for each violation after January 30, 1997, pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990, 28 U.S.C. § 2461, as amended by 31 U.S.C. § 3701.

EIGHTEENTH CLAIM FOR RELIEF

SIP Violations at Kershaw, South Carolina Facility, Annual Monitoring Reports

168. Paragraphs 1 through 39 are realleged and incorporated by reference herein.

169. EPA has conducted investigations of the ADM Kershaw Oilseed Plant and based on those investigations, information and belief, alleges the following:

170. ADM operates an oilseed processing plant at Kershaw, South Carolina pursuant to construction permits 1460-0015-CA-R1 and CB-R1 both issued by the South Carolina Department of Health and Environmental Control ("SCDHEC") on March 20, 1997.

171. Sections of the South Carolina Administrative Code have been approved by EPA pursuant to Section 110 of the CAA, 42 U.S.C. §7410, as identified at 40 C.F.R. § 52. 2120, and are commonly referred to as the South Carolina SIP. (See, 37 Fed. Reg. 10892, May 31, 1972.) South Carolina's Operating Permits Program was approved by the EPA as consistent with the requirements of the CAA, Title V, at 40 C.F.R. 70, Appendix A. (See, 61 Fed. Reg. 2722, July 26, 1995.) Pursuant to the EPA's approval of the South Carolina Operating Permits Program, certain air permits issued by South Carolina are federally enforceable. It is unlawful for any person to fail to comply with any approved provision of a SIP or a federally enforceable permit. (40 C.F.R. 52.23)

172. The approved South Carolina SIP contains a provision which states that any person who plans to construct, alter or add to a source of air contaminants, including the installation of control devices shall first obtain a permit for construction. (See, South Carolina Air Pollution Control Regulation No. 62.1, approved at 62 Fed. Reg. 47760, September 11, 1997.) The approved South Carolina SIP also provides that a person must submit a written

request to obtain an operating permit at least 15 days before placing any new, increased or altered source into operation. (See, South Carolina Air Pollution Control Regulation No. 62.1, approved at 62 Fed. Reg. 47760, September 11, 1997.)

173. Both of ADM's permits require that ADM submit an annual monitoring plan certification to the SCDHEC no later than 30 days after the end of the reporting period. SCDHEC reviewed its records and found that ADM had not submitted reports for the reporting periods of March 23, 1998 through March 22, 2001. Therefore, ADM has violated the approved South Carolina SIP, by failing to comply with the requirements of its construction permits. As such, ADM is violating Section 110 of the Clean Air Act, 42 U.S.C. § 7410 by failing to comply with the federally enforceable South Carolina SIP.

174. Unless restrained by an Order of the Court, these violations of the CAA, as implemented through the EPA-approved South Carolina SIP, will continue.

175. As provided in 42 U.S.C. § 7413(b), ADM's violations, as set forth above, subject it to injunctive relief and civil penalties of up to \$25,000 per day for each violation of the Act prior to January 31, 1997, and \$27,500 per day for each violation after January 30, 1997, pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990, 28 U.S.C. § 2461, as amended by 31 U.S.C. § 3701.

NINETEENTH CLAIM FOR RELIEF

SIP Violations at Kershaw, South Carolina Facility, Rail Load Out Modification

176. Paragraphs 1 through 39 and 169 through 172 are realleged and incorporated herein by reference.

177. SCDHEC reviewed its records and discovered that in 1982 ADM modified the

truck and rail load out facility (identified as EU-24 in ADM's permits) without applying for or receiving the necessary permits. ADM also failed to submit a written request to operate for the modifications made to EU-24. By failing to obtain the necessary permits and provide a written request to operate, ADM violated the approved South Carolina SIP and is in violation of Section 110 of the Clean Air Act, 42 U.S.C. § 7410 by failing to comply with the federally enforceable South Carolina SIP.

178. Unless restrained by an Order of the Court, these violations of the CAA, as implemented through the EPA-approved South Carolina SIP, will continue.

179. As provided in 42 U.S.C. § 7413(b), ADM's violations, as set forth above, subject it to injunctive relief and civil penalties of up to \$25,000 per day for each violation of the Act prior to January 31, 1997, and \$27,500 per day for each violation after January 30, 1997, pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990, 28 U.S.C. § 2461, as amended by 31 U.S.C. § 3701.

TWENTIETH CLAIM FOR RELIEF

SIP Violations at Kershaw, South Carolina Facility, Rail Receiving Modification

180. Paragraphs 1 through 39 and 169 through 172 are realleged and incorporated herein by reference.

181. SCDHEC reviewed its records and discovered that in 1997 ADM rebuilt its rail receiving facility (identified as EU-2 in ADM's permits) without applying for or receiving the necessary permits. ADM also failed to submit a written request to operate for the modifications made to EU-2. By failing to obtain the necessary permits and provide a written request to operate, ADM violated the approved South Carolina SIP and is in violation of Section 110 of the

Clean Air Act, 42 U.S.C. § 7410 by failing to comply with the federally enforceable South Carolina SIP.

182. Unless restrained by an Order of the Court, these violations of the CAA, as implemented through the EPA-approved South Carolina SIP, will continue.

183. As provided in 42 U.S.C. § 7413(b), ADM's violations, as set forth above, subject it to injunctive relief and civil penalties of up to \$25,000 per day for each violation of the Act prior to January 31, 1997, and \$27,500 per day for each violation after January 30, 1997, pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990, 28 U.S.C. § 2461, as amended by 31 U.S.C. § 3701.

TWENTY FIRST CLAIM FOR RELIEF
SIP Violations at Kershaw, South Carolina Facility, Extractor Modification

184. Paragraphs 1 through 29 and 169 through 172 are realleged and incorporated herein by reference.

185. As part of ADM's application for a Title V Operating Permit, ADM provided to the SCDHEC information that indicated that ADM had conducted an extractor replacement as part of the oil extraction process (identified as EU-17 in ADM's permits) without applying for or receiving the necessary permits. ADM also failed to submit a written request to operate for the modifications made to EU-17. By failing to obtain the necessary permits and provide a written request to operate, ADM violated the approved South Carolina SIP and is in violation of Section 110 of the Clean Air Act, 42 U.S.C. § 7410 by failing to comply with the federally enforceable South Carolina SIP.

186. Unless restrained by an Order of the Court, these violations of the CAA, as

implemented through the EPA-approved South Carolina SIP, will continue.

187. As provided in 42 U.S.C. § 7413(b), ADM's violations, as set forth above, subject it to injunctive relief and civil penalties of up to \$25,000 per day for each violation of the Act prior to January 31, 1997, and \$27,500 per day for each violation after January 30, 1997, pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990, 28 U.S.C. § 2461, as amended by 31 U.S.C. § 3701.

TWENTY SECOND CLAIM FOR RELIEF

SIP Violations at Little Rock, Arkansas Facility, VOC Emission Exceedance

188. Paragraphs 1 through 39 are realleged and incorporated by reference herein.

189. EPA has conducted investigations of the ADM Little Rock Oilseed Processing Plant, and based on those investigations, information and belief, alleges the following:

190. The Little Rock Oilseed Plant has authority to operate under Air Pollution Control Permit to Operate, # 683-AOP-R1 which the Arkansas Department of Environmental Quality ("ADEQ") issued on December 4, 2000 pursuant to the Arkansas Regulations of the Plan of Implementation of Air Pollution Control Plan, Regulation 26, Section 3, approved at 65 Fed. Reg. 61108, October 16, 2000. Sections of the Arkansas Administrative Code have been approved by EPA pursuant to Section 110 of the CAA, 42 U.S.C. § 7410, as identified at 40 C.F.R. § 52.170, and is commonly referred to as the Arkansas SIP.

191. Arkansas' Operating Permits Program was approved by the EPA as consistent with the requirements of the CAA, Title V, at 40 C.F.R. 70, Appendix A. Pursuant to the EPA's approval of the Arkansas Operating Permits Program, certain air permits issued by Arkansas are federally enforceable. It is unlawful for any person to fail to comply with any approved provision

of a SIP or a federally enforceable permit. (40 C.F.R. §52.23)

192. The Little Rock operating permit provides a VOC emission limit for co-generation units which burn natural gas of 0.41 pounds per thousand standard cubic feet of natural gas combusted ("lb/mcf"). According to the approved Arkansas SIP, specific emission limitations, which are stricter than the federal requirements that are in effect, may be required in applicable state permits in order to comply with federal emission standards. (Ark. Reg. 19, Section 501, approved at 65 Fed. Reg. 61108, October 16, 2000.) The VOC emission limit in ADM's Little Rock Oilseed operating permit is such a standard.

193. On February 7, 2001, ADM conducted an emission test which indicated VOC emissions from co-generation unit #1 of 0.425 lb/mcf. Therefore, ADM exceeded its permitted VOC emission limit for that unit, in violation of its federally enforceable permit. By exceeding its VOC emission limit, ADM is in violation of Section 110 of the Clean Air Act, 42 U.S.C. § 7410 by failing to comply with the federally enforceable Arkansas SIP.

194. Unless restrained by an Order of the Court, these violations of the CAA, as implemented through the EPA approved Arkansas SIP, will continue.

195. As provided in 42 U.S.C. § 7413(b), ADM's violations, as set forth above, subject it to injunctive relief and civil penalties of up to \$25,000 per day for each violation of the Act prior to January 31, 1997, and \$27,500 per day for each violation after January 30, 1997, pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990, 28 U.S.C. § 2461, as amended by 31 U.S.C. § 3701.

TWENTY THIRD CLAIM FOR RELIEF
SIP Violations at Little Rock, Arkansas Facility, VOC Emission Exceedance

196. Paragraphs 1 through 39 and 188 through 192 are realleged and incorporated by reference herein.

197. The approved Arkansas SIP also provides that emissions data from ADM's co-generation unit # 1, must be submitted annually to the ADEQ. (Arkansas Regulation 19, Section 705, approved October 16, 2000, 65 Fed. Reg. 61103.) ADM did not submit the emissions data they obtained on this unit, which indicated a VOC permit exceedance, in accordance with the annual reporting requirements. Therefore, ADM violated the approved Arkansas SIP and is in violation of Section 110 of the Clean Air Act, 42 U.S.C. § 7410 by failing to comply with the federally enforceable Arkansas SIP.

198. As provided in 42 U.S.C. § 7413(b), ADM's violations, as set forth above, subject it to injunctive relief and civil penalties of up to \$25,000 per day for each violation of the Act prior to January 31, 1997, and \$27,500 per day for each violation after January 30, 1997, pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990, 28 U.S.C. § 2461, as amended by 31 U.S.C. § 3701.

TWENTY FOURTH CLAIM FOR RELIEF
SIP and Permit Violations at Helena, Arkansas Facility

199. Paragraphs 1 through 39 and 188 through 192 are realleged and incorporated by reference herein.

200. EPA has conducted investigations of the ADM Helena Oilseed Plant and based on those investigations, information and belief, alleges the following:

201. ADM operated an oilseed processing plant at Helena, Arkansas pursuant to Permit No. 800-AOP-R1, issued on March 4, 1997. The Helena plant is no longer operating.

202. The approved Arkansas SIP contains provisions which require certain sources to perform daily and weekly opacity observations. (Ark. Reg. § 19.7, approved at 65 Fed. Reg. 61108, October 16, 2000.) These requirements were incorporated into ADM's permit No. 800-AOP-R1 for Helena. The EPA reviewed its records and discovered that while under operation, ADM had failed to conduct daily and weekly opacity observations on at least twenty-six (26) occasions. Therefore, ADM has violated the approved Arkansas SIP, by failing to comply with the requirements of its permit. As such, ADM is violating Section 110 of the Clean Air Act, 42 U.S.C. § 7410 by failing to comply with the federally enforceable Arkansas SIP.

203. The approved Arkansas SIP contains a provision which required ADM to submit reports of all required monitoring every six (6) months. Each report is required to contain data for the entire previous year, and all instances of deviations from permit requirements must be clearly identified in such reports. (Ark. Reg. 19.7, approved at 65 Fed. Reg. 61108, October 16, 2000.) This is also a requirement of the ADM's permit No. 800-AOP-R1-GP 7 issued to the Helena Facility. The reports submitted by ADM for the 6-month period from September of 1998 through February of 1999 did not contain data for the entire previous consecutive twelve (12) months for 21 sources of air pollution at the facility. In addition, previous reports for previous 6-month periods did not contain data for the entire previous consecutive twelve (12) months or identify deviations from the requirements to perform weekly observations and daily observations. Finally, the reports for the 6-month period from September of 1998 through February of 1999 (except for December of 1998), did not contain individual month data for the Fuel Oil Storage Tank (SN63). Therefore, ADM violated the approved Arkansas SIP, by failing to comply with the requirements of its permit. As such, ADM is violating Section 110 of the Clean Air Act, 42

U.S.C. § 7410 by failing to comply with the federally enforceable Arkansas SIP.

204. The approved Arkansas SIP contains a provision which required ADM to submit annual compliance certifications. (Ark. Reg. Section 26. 402, approved at 65 Fed. Reg. 61108, October 16, 2000.) This is also a requirement of ADM's Helena permit No. 800-AOP-R1. The EPA reviewed its records and discovered that ADM failed to submit the compliance certification that was due in January, 1999. Therefore, ADM has violated the approved Arkansas SIP, by failing to comply with the requirements of its permits. As such, ADM is violating Section 110 of the Clean Air Act, 42 U.S.C. § 7410 by failing to comply with the federally enforceable Arkansas SIP.

205. The permit for the Helena facility (800-AOP-R1-SC 116) contains a No_x limit for boiler #3 (SN-64) of 0.05 lb/mm Btu. The EPA reviewed its records and determined that tests conducted on October 20, 1997 showed that emissions from SN-64 were 0.0841 lb/mm Btu, which exceeded the permit limitation. The requirements of the permit are part of the approved Arkansas SIP (Ark. Reg. 19.9, approved at 65 Fed. Reg. 61108, October 16, 2000.). Therefore, ADM has violated the approved Arkansas SIP, by failing to comply with the requirements of its permits. As such, ADM is violating Section 110 of the Clean Air Act, 42 U.S.C. § 7410 by failing to comply with the federally enforceable Arkansas SIP.

206. As provided in 42 U.S.C. § 7413(b), ADM's violations, as set forth above, subject it to injunctive relief and civil penalties of up to \$25,000 per day for each violation of the Act prior to January 31, 1997, and \$27,500 per day for each violation after January 30, 1997, pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990, 28 U.S.C. § 2461, as amended by 31 U.S.C. § 3701.

TWENTY FIFTH CLAIM FOR RELIEF
NSPS, Subpart GG Violations at Helena, Arkansas Facility

207. Paragraphs 1 through 39 are realleged and incorporated by reference herein.

208. NSPS performance standards for facilities operating gas turbines are regulated pursuant to 40 C.F.R., Subpart GG, which contains a provision that requires these facilities to perform monitoring using certain test methods (See, 40 C.F.R. § 60.334 and 40 C.F.R. § 60.335). The EPA reviewed its records and, based upon test data submitted upon at least one occasion, was unable to determine whether the correct test methods had been used to test for NO_x emissions from certain gas turbines. Therefore, ADM violated the NSPS requirements of 40 C.F.R. §§ 60.334 and 60.335 by failing to provide data demonstrating that the correct test method was used for the monitoring period.

209. As provided in 42 U.S.C. § 7413(b), ADM's violations, as set forth above, subject it to injunctive relief and civil penalties of up to \$25,000 per day for each violation of the Act prior to January 31, 1997, and \$27,500 per day for each violation after January 30, 1997, pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990, 28 U.S.C. § 2461, as amended by 31 U.S.C. § 3701

TWENTY SIXTH CLAIM FOR RELIEF
SIP Violations at Clinton, Iowa Facility

210. Paragraphs 1 through 39 are realleged and incorporated by reference herein.

211. EPA has conducted investigations of ADM's Clinton Wet Corn Mill and based on those investigations, information and belief, alleges the following:

212. Sections of the Iowa Administrative Code have been approved by EPA pursuant

to Section 110 of the CAA, 42 U.S.C. §7410, as identified at 40 C.F.R. § 52.820, and are commonly referred to as the Iowa SIP. The approved Iowa SIP provides a person cannot construct a new emission source without a state construction permit. (Rule 567 Iowa Administrative Code § 22.1 approved at 65 Fed. Reg. 32031, May 22, 2000.) It is unlawful for any person to fail to comply with any approved provision of a SIP or a federally enforceable permit. (40 C.F.R. 52.23)

213. ADM installed several new emissions sources at the Clinton Facility, including two whizzer mechanical separators and a utilities diesel fuel storage tank, without first obtaining the required state construction permits. By not obtaining the proper construction permits ADM violated the approved Iowa SIP and is in violation of Section 110 of the Clean Air Act, 42 U.S.C. § 7410 by failing to comply with the federally enforceable Iowa SIP.

214. Unless restrained by an Order of the Court, these violations of the CAA as implemented through the EPA approved Iowa SIP, will continue.

215. As provided in 42 U.S.C. § 7413(b), ADM's violations, as set forth above, subject it to injunctive relief and civil penalties of up to \$25,000 per day for each violation of the Act prior to January 31, 1997, and \$27,500 per day for each violation after January 30, 1997, pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990, 28 U.S.C. § 2461, as amended by 31 U.S.C. § 3701.

TWENTY SEVENTH CLAIM FOR RELIEF
SIP and Permit Violations at Clinton, Iowa Facility

216. Paragraphs 1 through 39 and 211 through 212 are realleged and incorporated by reference herein.

217. On May 8, 1995, the Iowa Department of Natural Resources (IDNR) issued a permit to the Clinton, Iowa facility (permit 86-A-031S). In 1997, this permit contained a limit on NO_x emissions from gas fired Boiler No. 9 of 494 lbs./day. Based on information reviewed by EPA, the actual emissions from Boiler No. 9 were 761 lbs./day. In addition, permit 94-A-299-S, issued May 8, 1995, contained a limit on NO_x emissions from gas fired Boiler No. 10 of 494 lbs./day. Based on information reviewed by EPA, the actual emissions from Boiler No. 10 were 791 lbs./day. The requirements of the permits are part of the approved Iowa SIP. (Rule 567-22 Iowa Administrative Code § 22, approved at 65 Fed. Reg. 32031, May 22, 2000.) Therefore, ADM has violated the approved Iowa SIP, by failing to comply with the requirements of its permits. As such, ADM is violating Section 110 of the Clean Air Act, 42 U.S.C. § 7410 by failing to comply with the federally enforceable Iowa SIP.

218. Unless restrained by an Order of the Court, these violations of the CAA as implemented through the EPA approved Iowa SIP, will continue.

219. As provided in 42 U.S.C. § 7413(b), ADM's violations, as set forth above, subject it to injunctive relief and civil penalties of up to \$25,000 per day for each violation of the Act prior to January 31, 1997, and \$27,500 per day for each violation after January 30, 1997, pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990, 28 U.S.C. § 2461, as amended by 31 U.S.C. § 3701.

TWENTY EIGHTH CLAIM FOR RELIEF
SIP and Permit Violations at Cedar Rapids, Iowa Facility

220. Paragraphs 1 through 39 and 211 through 212 are realleged and incorporated herein by reference.

221. The EPA has conducted investigations of ADM's Cedar Rapids, Iowa facility, and based on those investigations, information and belief, alleges the following:

222. Cedar Rapids is located in Linn County, Iowa. Linn County is the delegated air enforcement authority for facilities located in Linn County. Certain portions of the Linn County Code of Ordinance, Air Pollution Control regulations incorporate by reference specific Iowa SIP provisions. (Linn County Code of Ordinance, Air Pollution Control, Chapter 10.) Section 10.4 of Linn County's Air Pollution Control ordinance incorporates the Iowa SIP operating permit provisions found at 567 IAC Chapter 22, which have been federally approved at 65 Fed. Reg. 32031, May 22, 2000.

223. On March 10, 1992, Linn County issued a permit to the Cedar Rapids, Iowa facility (Authorization to Install # 2417). In 1997, this permit contained a limit on the combined NO_x emissions from 60% Gluten Meal Dryer No. 2, 21% Gluten Feed Dryer No. 3, new Fiber Dryer No. 4, and new Fiber Dryer No. 5 of 223 lbs./day. Based on information reviewed by EPA, the actual emissions from these dryers was 226 lbs./day. The requirements of the Linn County permit are part of the approved Iowa SIP. (Rule 567-22 Iowa Administrative Code § 22, approved at 65 Fed. Reg. 32031, May 22, 2000.) Therefore, ADM has violated the approved Iowa SIP, by failing to comply with the requirements of its permits. As such, ADM is violating Section 110 of the Clean Air Act, 42 U.S.C. § 7410 by failing to comply with the federally enforceable Iowa SIP.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, the United States, respectfully requests that this Court:

1. Order ADM to immediately comply with the state and federal statutory

and regulatory requirements cited in this Complaint, under the Clean Air Act;

2. Order ADM to take appropriate measures to mitigate the effects of its violations;

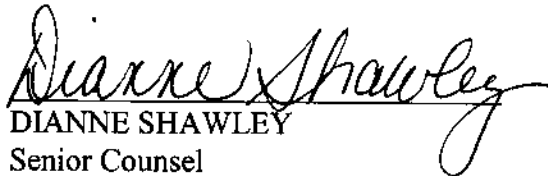
3. Assess civil penalties against ADM for up to the amounts provided in the applicable statutes; and

4. Grant the United States such other relief as this Court deems just and proper.

Respectfully submitted,



THOMAS L. SANSONETTI
Assistant Attorney General
Environment and Natural Resources
Division
U.S. Department of Justice

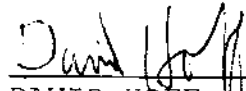


DIANNE SHAWLEY
Senior Counsel
Environmental Enforcement Section
U.S. Department of Justice
P.O. Box 7611
Washington, D.C. 20044-7611
(202) 514-0096



KIMBERLY M. BLEILER
Trial Attorney
Environmental Enforcement Section
U.S. Department of Justice
P.O. Box 7611
Washington, D.C. 20044-7611
(202) 305-0258

JAN PAUL MILLER
United States Attorney
Central District of Illinois



DAVID HOFF
Interim Civil Chief
Central District of Illinois
201 S. Vine Street, Suite 226
Urbana, IL 61802
(217) 373-5875

Date:

4/27/03

OF COUNSEL:

WILLIAM REPSHER

Attorney-Advisor

U.S. EPA

Office of Regulatory Enforcement
(2248A)

1200 Pennsylvania Ave, N.W.

Washington, DC 20460

BELINDA HOLMES

Senior Assistant Regional Counsel

US EPA Region VII

901 N. 5th Street

Kansas City, Kansas 66101